Previous references.

A 252-11 — 1912-13.

(Courts)

File No. 281-12

Serial Nos. 1-2

Later references.

Cs 60-13; 1-2

Sus 57-12 88 85. 86 88-92 93

Sus 243-14-23, [illegible] 19

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B. for May 1913

SUBJECT.

Unsatisfactory procedure ~~of Mr. [illegible]~~ Sreenivasa Murthy, Asst Comr and 1st class magistrate of Sagar in Cr. this case no 24 of 1911-12.

---

1. From the Registrar, Chief Court
No 3721/277 d. 16. 4. 13.
Recd for the information of Govt a copy of order passed by the Chief Court in Cr. revision case no: 39 of 1912-13 on the file of trial Court

2. To the Registrar Chief Court.
G. R. S. 58 Revenue Court & Ex-officio Nazir, Nasoor
No J 3584-6 d. 21. 5. 13.
Records the above with the observation that

P.T.O.

view with displeasure any delays in the disposal of such cases as are brought to the notice of Govt by the Chief Court and that such instances will be noted as bearing on the character of the service rendered by the officer concerned.

17.7.13.

G.R.S. 11] 1912-13

GENERAL AND REVENUE SECRETARIAT.

(Court)

NOTES.

File No. 287 of 1912

FILE HEADING.

Remarks of the Chief Court regarding the unsatisfactory manner in which the Magesterial enquiry was conducted in criminal case no 24 of 1911-12 on the file of the Asst Court & 1st class Magte, Salem Sub div^n.

From

The Registrar, Chief Court

No. 3721/277 Dated 16/17.4.1913 Received 19/20.4.1913

Diary No.	Enclos.	Spare Copies.	Serial No.
T2960	1		1

BRIEF ABSTRACT OF LETTER.

Forwards for the information & that a copy of order passed by the Chief Court in Crl revision case no 39 of 1912-13 on the file of that court.

NOTES AND ORDERS.

1) Dewan's remarks in the Abstract of Appeal Dy 18.4.1913, against the abstract of this letter.

"For action"

2) Submitted 65 file 252 of 1911 in which, in the disposal of a Crl case by Mr M. Sreenivasa Murthi, Asst Court, the delay was viewed with

P.T.O

Page 1

NOTES—First Sheet.

GPB—30,000—12-8-11

R. S. 12]

General and Revenue Secretariat.

65 File No. 281 of 1912-13

Serial No.

displeasure
KG.—129 SW
25/4/1913 SW

3) Submd / rders. The Order of the Chief Court fixes the fact of the case clearly. Nearly two years + five months elapsed frm the date of the Police report & the date of the order when the case was struck off the file. The Judges give an elaborate account of the delay in the disposal of the case for which Mr M. Srinivasa Murti was responsible to a great extent

Dr Secy) SW 28/4

4) On page 3 of the order, Mr R Narasimha Row is said to have been the First class Mag. of Shimoga Sub-division. This is incorrect as he was never in Shimoga. The Mag. in charge was Mr Narasimha Rama Row. (as gathered from the enclosures).

5) on page 4 the Chief Court sum up their conclusions about the three Magistrates that handled the case and distinguish the special irresponsibility of Mr Srinivasa Murthi.

1st Comptroller) Dhurandhar 25/4 IV

6) To be recorded with the observation that Govt ~~disagree~~ view

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat.

Ch File No. 251 of 1912-3

Serial No.

With displeasure such delays in the prompt disposal of cases as are brought to notice by the Hh. Court. Such instances will be noted as bearing on the character of the service rendered by the Offrs Concerned-

29/4/13

2798
30.4.13

Dewan

WS 30/4 Dewan 30/4 OK 30/4

7 I agree. The Govt displeasure should be communicated to the Offrs concerned & recorded in his personal file.

13.5.13 RO

How is this proposed to be done by the Govt? Dewan 17/5

8 Please let me see the drafts

Dy 15/5 - Dewan 15/5

9 Put up draft

SVR 16/5

Ch 16/5 10 Sub with a draft order. Has the same to be marked confidential?

Not necessary I think Dewan 17/5

Kg. - 129

16/5/1913 SVR 17/5/13

4.20 pm 17.5

Dy Secy) SVR 17/5

1st Councillor) Dewan 17/5 for 17/5

11 Draft appd: by 1st Councillor 17.5.13

Dewan 17/5 Please see Dy

Dy 17/5 - 1st issue SVR 17/5

NOTE—Contn. sheet.

GPE—65,000—17-C-12.

3290 (4)

R. S. 12]

General and Revenue Secretariat.

65 File No. 281 of 1912-13

Serial No.	
2	To The Registrar, Chief Court The Resr Courts in Mysore The Dist. Mgte, Hassan No J 3584-6 dy 21-5-1913 Recds Sl 1 with the observation that Govt view with displeasure such delays in the disposal of cases as are brought to notice by the Chief Court and that such instances will be noted as bearing on the character of the service rendered by the offrs concerned.
J 3290	From the Registrar, Chief Court No 4009/300 dy 13th May 1913 Forwards a copy of erratum to the order of the Chief Court recd with Sl 1. 13) The error has already been observed in para 4 of the note. 14) With regard to the last portion of the order in para 7, it is not known if any personal file of the nature of a character roll is maintained for ~~the~~ such offrs in the Council Sects. This may be sent there for making the necessary recds, if any such roll is maintained there. ~~Subd~~ KG-129 SW 15) To the Council Secretariat for information 21/5/13 21/5/13 SW 21/5

NOTE—Contn. sheet.

GPE—65,000—17-6-12.

3290

. R. S. 12]

General and Revenue Secretariat.

Cts. File No. 281 of 1912-13.

Serial No.

16) The remarks are noted in the Confdl register and the file is returned.
Dd 21.5.13 VS

Cb

17) Subd with refce to the Dy. Secy's query against para 7 in the margin of page 3.
Kq.-129 SM 23.5.13

Dy Secy SM 23/5
Seen Desai 23/5

18)

B
Dr 15

NOTE—Contn. sheet.

GPE—65,000—17-C-12.

No. 3721 Enl
277

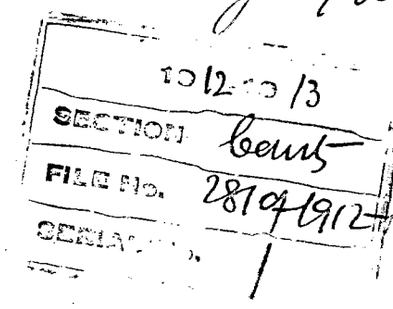
(1

CHIEF COURT OF MYSORE,

Bangalore, 16th Aptil 1913.

7

J 2960 KG 9/4



From

The Registrar of the
Chief Court of Mysore.

To

The Secretary to Government,
General and Revenue Departments.

S i r ,

Adverting to your letter No. 1538/J dated 2nd February 1904, I am directed to forward for the information of Government copy of order in Criminal Revision Case No. 39 of 1912-1913 on the file of this Court.

May 3

I have the honor to be ,

S i r ,

Your most obedient servant

REGISTRAR.

K.P.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Tuesday, the 8th day of April 1913.

Present.

Mr. Justice P.S. KRISHNA RAO, Rao Bahadur, Chief Judge,

and

Mr. Justice K. S. CHANDRASEKHARA AIYAR.

Criminal Revision Case No. 39 of 1912 - 13.

× Dated 13/20 January 1913.

In the matter of a reference × by the Sessions Judge of Shimoga Division submitting ~~for orders~~ the record under Section 438 of the Criminal Procedure Code, in Criminal Mis: Case No. 24 of 1911-1912 on the file of the Assistant Commissioner and First Class Magistrate, Sagar Sub Division.

Kolluvial v Gundappa

(Proceedings under Section 145, Criminal Procedure Code).

ORDER.

This is a case that has been reported by the Sessions Judge of Shimoga for the orders of this Court, under Section 438 of the Code of Criminal Procedure.

Before we deal with the specific ~~xx~~ point involved in the reference, it is necessary to draw attention to the extremely unsatisfactory manner in which the magisterial enquiry in this

this case has been conducted. A police report intimating the existence of a dispute likely to cause a breach of the peace between two persons, Kallorayya and Govindappa, was received by the First Class Magistrate of the Sagar Sub Division (Mr. P.Srinivas Murti) on the 26th March 1910. But the Magistrate put off taking action till the 13th May when he issued notice to the Police Inspector to appear on the 6th June, which date was changed to the 14th Idem. Further adjournments on equally unsubstantial grounds were ordered from time to time till the 14th October when, apparently with no other object than to rid himself of the case, the Magistrate returned the records to the police with a direction that it might be resubmitted if at the harvest season there appeared to be any likelihood of a breach of the peace. Such a contingency was again reported by the Police Inspector on the 26th November; but the Magistrate would not be moved from his apathetic and dilatory attitude; after a number of adjournments for the examination of the Inspector, which was at last effected on the 22nd February 1911, he passed an order on the 20th May 1911 (- that is, after an interval of three months during which nothing whatever was done -) calling upon the Inspector to report how the matter stood then. The Inspector, in a report of the 27th June 1911, gave the Magistrate distinctly

(4

to understand that there was imminent danger of a breach of the peace and of other offences as well and that in order to obviate the same it was essential to initiate proceedings under Section 145 of the Criminal Procedure Code. Meanwhile Kalloorayya also petitioned the Magistrate to the same effect on the 20th June 1911. There being no further excuse for delaying action, the Magistrate woke up and passed an order on the 29th July calling upon the parties to put in written statements of their claims on or before the 21st August. As might almost have been anticipated, the case did not come on on the last mentioned date, Mr. Srinivasa Murti having meanwhile put off the hearing to the 19th September 1911 on the ground that he had to go on leave. The case was then transferred to the file of the First Class Magistrate in charge of the Shimoga Sub Division (Mr. R. ~~Narayain~~ Nanadeeni Rao) who took no particular action beyond posting the case to the 11th November and again to the 6th December for the appearance of the Police Inspector. At this stage, the case was retransferred to the Sagar Sub Division ~~Kix~~ First Class Magistrate's Court, which was now presided over by Mr. S. Narayana Rao. The latter officer posted the enquiry to the 6th and then to the 23rd March 1912 on which date the parties were not ready with their written statements; and hence there ensued a further adjournment to the

20th

20th April 1912. On that date, the Magistrate considered that there was room for further police enquiry and report as to whether an order under Section 145 was still called for, and so referred the matter once again to the Amildar as head of the Taluk police. The Amildar reported that there did not appear to be any present danger of a disturbance; this report was sent in May 1912, but was lost sight of for nearly 4 months, after which the Magistrate passed final orders on the 18th September 1912 striking the case off the file.

It is obvious from the particulars set forth above that none of the Magistrates through whose hands the case passed seem to have realised the gravity of the matter, and that in particular the Magistrate who handled it in its earlier stages (Mr. Srinivasa Murti) showed an utter absence of a sense of his responsibility and a rooted unwillingness to tackle a matter, however grave, which might entail personal trouble and effort, that very seriously detract from his efficiency as a Magistrate. We are aware that Magistrates are as a rule somewhat dilatory in regard to proceedings under Chapter XII of the Criminal Procedure Code; and, as observed by the Sessions Judge, instances are not wanting where the lack of promptness on their part has led to

bloodshed

bloodshed and other serious disorders. That no such untoward result has so far happened in the present case is a matter for which certainly neither of the Magistrates before whom it was pending can take any manner of credit. We take this opportunity of impressing upon all Magistrates competent to take action under Chapter XII the great importance of promptitude and decision in dealing with a class of cases in regard to which, as affecting the public security, the law has framed a special set of provisions.

We pass on to the point that has been submitted for orders by the Sessions Judge, and that is, whether the procedure adopted by Mr. S. Narayana Rao in referring the case back to the police for a report as to the present chances of a disturbance of the public peace and in disposing of the matter finally on such report is correct. Viewing it as a question of law, we are not prepared to go the length of holding that a Magistrate would not be justified under any circumstances in stopping proceedings once started by him upon receipt of a report from the police pointing to the cessation of all likelihood of a breach of the peace. The existence of a dispute likely to cause a breach of the peace is a condition precedent to the Magistrate entering upon an inquiry as to possession; and it has been held

by

(7)

by the Calcutta High Court in Manindra Chandra Nandi V Barada Kanta Chowdhry, 30 Cal. 112, that when once the Magistrate becomes satisfied, whatever the source of his information may be, that the state of things does not exist which alone would give him jurisdiction to proceed with the inquiry, the whole object of the proceeding cases, and any inquiry that he might make would become a mere inquiry in a civil dispute - an inquiry of a kind which is not ordinarily within the jurisdiction of a Magistrate. But it is one thing to allow that a Magistrate is competent to stay proceedings if he has information from any source justifying such stay, and quite another thing to say that in the absence of adequate data of any kind a Magistrate may suspend an inquiry duly started with the passing of his preliminary order under Sub Section (1) and go about seeking to elicit information as to the chances of a possible cessation of the original state of things. Such a course is opposed to the spirit of Sub Section (5), which makes the preliminary order final unless the parties concerned or any other persons interested succeed in showing that no such dispute as aforesaid exists or has existed; and it will merely unduly protract the enquiry and defeat its real object, as illustrated by the facts of this case.

Beyond

(8

5 Beyond this expression of our ~~feelings~~ opinion, no particular action seems called for in the circumstances. The papers will therefore be returned.

Sd/- C. S. Krishna Rao
CHIEF JUDGE.

Sd/- K. Subrahmanyam
JUDGE.

N. G.

"Copy".

Registrar.

12

Reading with certain observations [illegible] order passed by the Chief Court [illegible] delay in a Criminal case on the file of the Assistant 1st Class Magistrate, Tarikere.

G.R.S. 28.]

File No. 281 4/1912-13

Serial No. 2

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

( )

Bangalore, the 19

Date of issue 21-5-13

Signed by Rao Sahib Rajagopalachar.

Read--

Govt Progs No. J 1557-2/65 252-11-5, dt. the 29th Nov 1912, viewing with displeasure the excessive delay in the disposal of a Criminal Case by Mr M. Srinivasa Murti, Try Asst Com & 1st Class Magistrate of Hassan, in ~~having given room to excessive delay in the disposal of a Criminal Case~~ ORDER THEREON. No.

2) Letter no. 3721/277, dt. the 16th April 1913, from the Registrar, Chief Court, forwarding for information a copy of the order passed by

P.T. over

Put for orders Disposal

SUBJECT.

GPB—10,000—19-4-10-

20/5/13

The Chief Court in Crl revisin case no. 39 of 1912-13 on the file of that court; commenting upon the delay in the disposal of Crl mis case no 24 of 1912-13 on the file of the Asst Coun. & 1st Clan magistrate, Sagar Sub-Di and characterising the attitude of Mr M. Srinivasa Murti, Asst Coun & 1st Clan mgte, who was then in charge of that Sub-Div, in proceeding with the said case as apathetic and dilatory.

Order thereon - no. J 3584-6.

Records with the observation that Govt view with displeasure such delays in the disposal of cases as are brought to the notice of Govt by the Chief Court. Instances such as these will be noted as bearing on the character of the Service rendered by the Offrs concerned.

SPK

Draft 17/5 17/5/13

Forwdg: Secy to Govt

SW/

To

The Registrar, Chief Court

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

The Rev: Carr in Mysore

The Dist. Magistrate, Hassan,

for communicating the

above to Mr M. Srinivasa Murti

DFi
Rg.-129
16/5/1913

No. 4009 Ex.
300

(12

Chief Court of Mysore,

Bangalore dated 13th May 1913.

14

From

V.A. Rajaratna Mudaliar Esq.,

Registrar, Chief Court of Mysore.

DIARY No. J. 3290.

To

K.R. Srinivasa Iyengar Esq.,

Secretary to Government,

General & Revenue Departments.

19 -19
SECTION
FILE No.
SERIAL No.

S i r ,

I am directed to forward copy of erratum of this date to the Chief Court's Order in Criminal Revision Case No.39 of 1912-13, copy of which was sent with this Office Letter No.3721/277 dated the 16th/17th April 1913.

I have the honor to be,

Sir,

Your most obedient servant,

Registrar.

409

Enc to J 3290 (13)

In the Chief Court of Mysore at Bangalore.

Dated the 13th May 1913.

-::0::-

E r r a t u m .

In para 2 of the Chief Court's Order in Criminal Revision Case No.39 of 1912-13 (copy of which was sent with this office No.3721/277 dated 16th/17th April 1913), the reference to " Mr R. Nanasamy Rao " should be replaced by one to " Mr N. Rama Rao ", the latter being the First Class Magistrate in charge of the Shimoga Sub Division at the time.

Sd-. V.A. Rajaratna Mudaliar,

R e g i s t r a r .

" C o p y ".

Registrar.